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**Federal Communications Commission**

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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

**In the Matter of**

Paladen Communications, Inc.  
a/k/a CB Shop

North Jackson, Ohio

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File No. EB-03-DT-120

NAL/Acct. No. 200432360003

FRN: 0010 6809 40

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Released: May 27, 2004**

By the District Director, Detroit Office, Northeast Region, Enforcement Bureau:

**I. INTRODUCTION**

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find that Paladen Communications, Inc. a/k/a CB Shop ("Paladen"), has apparently violated Section 302(b) of the Communications Act of 1934, as amended<sup>1</sup> ("the Act"), and Sections 2.815(b) and 2.815(c) of the Commission's Rules ("Rules")<sup>2</sup> by offering for sale Citizens Band ("CB") external radio frequency power amplifiers ("linears"). We conclude that Paladen is apparently liable for a forfeiture in the amount of seven thousand dollars (\$7,000).

**II. BACKGROUND**

2. On July 24, 2003, agents from the Detroit Office visited Paladen at 12274 Mahoning Avenue, Suite 14, North Jackson, Ohio. During this visit, the agents observed a Palomar Deluxe Modulator DX-55V CB linear on sale for \$250. The agents informed Arthur Dundorf and Preston Dundorf of Paladen, that CB linears could not be legally sold. As a result of their findings, the Detroit Office issued them a Citation on October 31, 2003. The Citation informed Paladen of the violations and penalties that could be imposed for selling linears. The Detroit Office received a reply from Paladen, signed by Preston L. Dundorf, proprietor. He wrote that they were unaware that they were violating marketing rules and that they would not violate the rules in the future.

3. On January 9, 2004, the Detroit Office received a complaint that Paladen was continuing to violate the Commission's marketing rules by selling CB linear amplifiers. As a result of this new report, an agent traveled to North Jackson, Ohio to determine if Paladen was continuing to sell CB linears. On February 24, 2004, a sales person for Paladen offered to sell the agent a Palomar 100 watt linear amplifier for \$124.00.

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<sup>1</sup> 47 U.S.C. § 302(b).

<sup>2</sup> 47 C.F.R. §§ 2.815(b), and 2.815(c).

### III. DISCUSSION

4. Section 302 of the Act authorizes the Commission to regulate equipment capable of emitting radio frequency energy that may cause interference to radio communications. The Act further states that “[n]o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section. Section 2.815(b) of the Rules states that “...no person shall manufacture, sell or lease, offer for sale or lease (including advertising for sale or lease), or import, ship, or distribute for the purpose of selling or leasing or offering for sale or lease, any external radio frequency power amplifier or amplifier kit capable of operation on any frequency or frequencies between 24 and 35 MHz.”<sup>3</sup> Section 2.815(c) of the rules states “No person shall manufacture, sell or lease (including advertising for sale or lease) or import, ship or distribute for the purpose of selling or leasing or offering for sale or lease, any external radio frequency power amplifier or amplifier kit capable of operation on any frequency or frequencies below 144 MHz unless the amplifier has received a grant of type acceptance...” Paladen was repeatedly warned, verbally and in writing, about the penalties for selling CB linear amplifiers, yet, they continued to sell them in violation of Section 302 of the Act<sup>4</sup> and Sections 2.815(b) and 2.815(c) of the Rules.

5. Based on the evidence before us, we find that Paladen willfully<sup>5</sup> and repeatedly<sup>6</sup> violated Section 302 of the Act and Sections 2.815(b) and 2.815(c) of the Rules by offering for sale CB linear amplifiers on February 24, 2004. *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087, 17113 (1997), *recon. denied*, 15 FCC Rcd 303(1999) (“*Forfeiture Policy Statement*”)<sup>7</sup>, sets the base forfeiture amount for importation or marketing of unauthorized equipment at seven thousand dollars (\$7,000). In assessing the monetary forfeiture amount, we must take into account the statutory factors set forth in Section 503(b)(2)(D) of the Act.<sup>8</sup> These factors include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require. Applying the *Forfeiture Policy Statement*, statutory factors and the inflation adjustments to the base amount of Paladen’s violation of \$7,000 for marketing unauthorized equipment, we find no compelling evidence to support any adjustments to the base

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<sup>3</sup> Note: For purposes of this part, the amplifier will be deemed incapable of operation between 24 and 35 MHz if: (1) The amplifier has no more than 6 decibels of gain between 24 and 26 MHz and between 28 and 35 MHz. (This gain is determined by the ratio of the input driving signal (mean power measurement) to the mean RF output power of the amplifier.); and (2) The amplifier exhibits no amplification (0 decibels of gain) between 26 and 28 MHz.

<sup>4</sup> Citation issued to Paliden Communications d/b/a The CB Shop, October 31, 2003.

<sup>5</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that “[t]he term ‘willful’, when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act ....” See *California Broadcasting, Co.*, 6 FCC Rcd 4387 (1991).

<sup>6</sup> Section 312(f), which also applies to Section 503(b), of the Act, provides that: “[t]he term “repeated”, when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.”

<sup>7</sup> 47 C.F.R. § 1.80.

<sup>8</sup> 47 U.S.C. § 503(b)(2)(D).

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forfeiture amount. Thus, we believe that a forfeiture amount of seven thousand dollars (\$7,000) is warranted.

**IV. ORDERING CLAUSES**

6. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b)<sup>9</sup> of the Act and Sections 0.111, 0.311 and 1.80 of the Rules<sup>10</sup>, Paladen Communications a/k/a CB Shop, is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of seven thousand dollars (\$7,000) for willful and repeated violation of Section 302(b) of the Act and Sections 2.815(b) and 2.815(c) of the Rules.

7. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty (30) days of the release date of this NOTICE OF APPARENT LIABILITY, Paladen, SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

8. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. 200432360003, FRN: 0010 6809 40.

9. The response, if any, must be mailed to Federal Communications Commission, Detroit Office, 24897 Hathaway Street, Farmington Hills, MI 48335-1552, and MUST INCLUDE THE NAL/Acct. No. 200432360003.

10. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

11. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.<sup>11</sup>

12. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Federal Communications Commission, Enforcement

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<sup>9</sup> 47 U.S.C. § 503(b).

<sup>10</sup> 47 C.F.R. §§ 0.111, and 0.311.

<sup>11</sup> See 47 C.F.R. § 1.1914.

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Bureau, Spectrum Enforcement Division, 445 12th Street, S.W., Washington, D.C. 20554. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC's Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

13. IT IS FURTHER ORDERED THAT this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail, Return Receipt Requested, to Paladen Communications a/k/a CB Shop, 12274 Mahoning Avenue, Suite 14, North Jackson, Ohio 44451.

FEDERAL COMMUNICATIONS COMMISSION

James A. Bridgewater  
District Director  
Detroit Office

Attachment A - FCC List of Small Entities, October 2002.